

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 654 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD MUNICIPAL CORPN

Versus

LALBHAI GIRDHARLAL A FIRM

Appearance:

MR BP TANNA for Petitioner

No one remained present on behalf of the respondent despite service of notice.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 08/04/99

ORAL JUDGEMENT

This appeal is directed against the judgment and order dated 14th November, 1989 passed by the Small

Causes Court No.12 at Ahmedabd in M.V.A. No.4120 of 1987 whereby the appeal has been partly allowed reducing the gross rateable value of the premises in question as assessed by the Municipal Corporation to be Rs.14,964/to that of Rs.5,400/- under the B.P.M.C. Act. The subject matter of this case is that on the premises owned by the respondent at Kankaria T.P.S.II bearing survey No.24+53/Paiki/56+56/1 the Municipal Corporation had assessed the gross rateable value at Rs.14,964/- for the year 1986-87. Merely because the premises is self-occupied admeasuring about 156 sq.mtr. the Small Causes Court has considered its user and area and has arrived at the conclusion that its notional rent would be Rs.450/- per month and, therefore the gross rateable value is required to be fixed at Rs.5,400/- for the year 1986-87.

2. We find that merely because the premises is self-occupied, the gross rateable value of it could not be assessed by taking the notional rent into consideration. the Municipal Corporation had assessed the gross rateable value on the basis of the annual letting value as per the amended definition of the same. It is clear from the reading of the impugned order that the Small Causes Court has not applied the correct basis for the purpose of determining the gross rateable value and without giving any reasons as to how the gross rateable value arrived at by the Municipal Corporation was wrong or excessive he has proceeded to reduce the same from Rs.14964/- to that of Rs.5,400/- by taking the notional rent to be at Rs.450/- per month for which also, there was no material. Thus, the impugned order lacks the application of mind and the assessment made by the Municipal Corporation has been interfered with and reduced for no reasons and without any lawful justification and it is a case in which the Court below has failed to address itself to the relevant considerations for the purpose of determining the gross rateable value and ignoring the amended definition of the annual letting value. There was no question of deciding this matter on the basis of the notional rent.

3. For the reasons aforesaid, we find that the impugned order dated 13th November, 1989 cannot be sustained in the eye of law and the same is hereby set aside. This appeal is accordingly allowed. No order as to costs.

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